THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.4166 of 2007

Date:13.03.2007

Between:

Sabari Spinning Mills Limited

.. PETITIONER

AND

The Sub-Registrar.

..RESPONDENT

ORDER:

The petitioner is a limited company and it established a Spinning Mill at Rachakhandrika Village, Varadaiahpalem Mandal, Chittoor District. It is stated that the industry has become sick in the recent past. Therefore, the petitioner intended to sell its lands in various survey numbers of the village. Accordingly, it presented five sale deeds before the respondent, for registration. The latter, in turn, informed the petitioner, through a letter, dated 24.02.2007, stating that the lands covered by the sale deeds are included in the Special Economic Zone notification published in Gazette, dated 16.03.2006, and that on the same day, notification under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') was issued. On that basis, he refused to entertain the documents for registration. The petitioner challenges the communication, dated 24.02.2007.

The learned counsel for the petitioner submits that the Special Economic Zone (S.E.Z.) does not prohibit transfer of the properties and even where a notification under Section 4(1) of the Act is issued, the owner of the land proposed to be acquired is not prohibited from alienating the same.

The learned Government Pleader for Revenue has placed before this Court the copies of notification issued under the Special Economic Zones Act, 2005 (for short 'the S.E.Z. Act') and the one issued under Section 4(1) of the Act.

From the communication, dated 24.02.2007, issued by the respondent, it is clear that the only ground on which he refused to receive the document presented by the petitioner is that the lands are included in the notification issued under the S.E.Z. Act and the Land Acquisition Act.

From a perusal of the relevant notifications, it is evident that several extents of land including those held by the petitioner are sought to be acquired for establishing a S.E.Z. by the A.P. Industrial Infrastructure Corporation Limited. However, there is nothing in the S.E.Z. Act, which prohibits the transfer of lands, which are notified under it. Similarly, the Land Acquisition Act does not prohibit transfer of lands covered by a notification under Section 4(1). It is only when the possession of the land is taken and it is vested in the Government that the erstwhile owner ceases to have the right to transfer his interest. The fact that the enquiry under Section 5-A of the Act is not dispensed with discloses that the regular procedure should be followed and possession of the land should be taken only after an award is passed and compensation is paid. Till then, the petitioner cannot be denied the right to alienate the properties.

Therefore, the writ petition is allowed and the communication, dated 24.02.2007, issued by the respondent is set aside. He is directed to register the documents of the petitioners, if they are found to be otherwise in accordance with law. The transfer made by the petitioners shall not have any effect on the notifications issued under the Special Economic Zone Act or the

land Acquisition Act. There shall be no order as to costs.

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13.03.2007

Note: issue cc in three days.
(B/o)
kdl